

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

**IN RE:**

**HERMANOS TORRES PÉREZ, INC.**

Debtor

**CASE NO.; 09-05585 (BKT)**

**CHAPTER 11**

**MOTION REQUESTING EXTENSION OF THE EXCLUSIVITY PERIOD AND  
EXTENSION OF TIME IN WHICH TO SUBMIT A DISCLOSURE STATEMENT AND  
PLAN OF REORGANIZATION**

**TO THE HONORABLE COURT:**

**COMES NOW** Hermanos Torres Pérez, Inc., hereinafter the Debtor, through the undersigned attorney and very respectfully states and prays:

1. On July 7, 2009 Debtor submitted its petition for Bankruptcy under Chapter 11 of the Bankruptcy Code. Since that date, Debtor has fulfilled all of its obligations as a Debtor in Possession.
2. Subsequent to the date of its petition, Debtor encountered an unanticipated conflict with its prime supplier of products, Peerless Oil & Chemicals, Inc., who has over whelmed the Debtor its Principals and the sureties, MAPFRE and Tower Bonding. Due to the conflict with Peerless and due to the increased effort necessary to conduct Debtor's operations, Debtor's efforts to devise an effective reorganization plan and compose a fully adequate disclosure statement have been delayed.
3. Peerless has also filed a motion requesting the appointment of a Chapter 11 Trustee (Docket No. 43) to which the Debtor has responded. (Docket No. 46).
4. Despite this delay, Debtor has made good and steady progress towards reorganization.
5. Debtor has also demonstrated progress towards reorganization as evinced by its monthly

operating reports.

6. Debtor also anticipates filing some adversary proceedings which are currently under consideration by its special counsel. These adversary proceedings may substantially augment the funds available for the reorganization. In order to assess the impact of the anticipated adversary proceedings on the estate, the Debtor requires additional time to consult with its special counsel.
7. Further Debtor needs additional time to negotiate with other key creditors, including governmental creditors.
8. Debtor contends that allowing it more time to negotiate with key creditors and more time to discuss the proposed plan of reorganization with interested parties will enable Debtor to present a plan that can be evaluated on a more expeditious basis.
9. Despite encountering some delays, Debtor has made considerable progress towards reorganization as detailed below:
  - A. Debtor has submitted all necessary documents in the course of the Bankruptcy process including its Monthly Operating Reports;
  - B. Debtor has made all necessary payments to the U.S. Trustee;
  - C. Debtor, despite considerable obstacles, has operated successfully since the petition date as evinced by the monthly operating reports.
10. Accordingly, pursuant to 11 USC § 1121(d)(2) Debtor respectfully requests this Court to extend the exclusivity period where Debtor can submit a Disclosure Statement and Plan of Reorganization by thirty (30) days to December 4, 2009.
11. Debtor also requests that this Court extend the period that Debtor has to solicit approval and secure acceptance of a plan by sixty (60) days as well following an entry of an order approving the adequacy of the Disclosure Statement.

12. According to 11 USC § 1121(d)(2) this Court may extend the period of exclusivity when good cause exists. Good cause includes the following factors:

- Necessary time to permit the Debtor to negotiate a plan of reorganization and prepare adequate information;
- The Debtor's good faith progress towards reorganization;
- The size and complexity of the case;
- That debtor is meeting its obligations as Debtor in possession;
- The amount of time that has elapsed since the initial submission of the bankruptcy petition;
- Whether any extension will harm the creditors;
- Whether there is a likelihood of successful reorganization.

*See e.g. In re Southwest Oil Company*, 84 B.R. 448 (Bankr. W.D. Tex, 1987); *In re Cent. New Jersey Airport Services*, 282 B.R. 176 (Bankr. D.C. N.J., 2002); *In re Express One Intl., Inc.* 194 B.R. 98 (Bankr. E.D. Tex 1996); *In re Gibson and Cushman Dredging Corp.*, 101 B.R. 405 (E.D. N.Y. 1989).

13. Debtor submits for the reasons delineated herein that it has good cause to request an extension of thirty (30) days in which to submit a Disclosure Statement and a commensurate extension of sixty (60) days for the exclusivity period.

14. Debtor requests this extension in good faith.

15. Debtor believes that this extension of time shall not harm the creditors as the extension shall be used to formalize a plan of reorganization that improves the position of the estate and to solicit the comment and position of creditors with respect to the plan.

16. Extending the date of the exclusivity period in which to submit a Disclosure Statement and Plan of Reorganization by thirty (30) days to December 4, 2009 shall result in a plan being submitted that is still less than six months from the date of the Bankruptcy petition.

17. Accordingly, Debtor believes that this additional time shall not cause any undue hardship to

the creditors.

**WHEREFORE**, the Debtor respectfully requests this Court to Order an extension of the exclusivity period to submit a Disclosure Statement and Plan of Reorganization by thirty (30) days to December 4, 2009. Debtor also requests that the period of time in which it has to solicit approval and secure acceptance of a Plan of Reorganization be similarly extended by sixty (60) days following the entry of an Order approving the Disclosure Statement becomes a final order, while reserving Debtor's right to seek further extensions of time, if necessary, for cause.

### **NOTICE**

The Debtor gives notice that unless a party in interest objects to this Motion within ten (10) days of the date below, the Court may grant Debtor's request of extending the Exclusivity Period in which to submit a Disclosure Statement and Plan of Reorganization without a hearing.

### **RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 2<sup>nd</sup> day of November, 2009.

**I HEREBY CERTIFY** that on this same date I electronically filed the foregoing through the CM/ECF system, which will send notification of such filing to the parties listed below:

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I FURTHER HEREBY CERTIFY, that on this same date copy of this document has been sent by regular mail to all creditors and parties in interest as per the Master Address List herein attached.

**C. CONDE & ASSOC.**

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**09-05585-BKT11** HERMANOS TORRES PEREZ INC  
**Case type:** bk **Chapter:** 11 **Asset:** Yes **Vol:** v **Bankruptcy Judge:** BRIAN K. TESTER  
**Date filed:** 07/07/2009 **Date of last filing:** 10/26/2009

## Creditors

<b>AEE</b> PO BOX 741 JUANA DIAZ PR 00795	(2793831) (cr)
<b>AIR CENTER OF PR</b> PMB 112 PO BOX 200 BAYAMON PR 00960	(2793832) (cr)
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<b>CONSOLIDATED WASTE SERVICES CO</b> PO BOX 13487 SAN JUAN PR 00908	(2793839) (cr)

<b>CORREA TIRE DISTRIBUTOR</b> RJ AUTOMOTIVE BO SABANETAS SECTOR LA CALZADA MERCED	(2793840) (cr)
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FEDERAL LITIGATION DIVISION (2793875)  
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